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EXTRAORDINARY

PART II—Section 2

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LOK SABHA

The following Bill was introduced in Lok Sabha on the 23rd August, 1961:—

*BILL No. 49 OF 1961

A Bill further to amend the Delhi Municipal Corporation Act, 1957.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Delhi Municipal Corporation Short title.
(Amendment) Act, 1961.

66 of 1957. 5 2. In section 2 of the Delhi Municipal Corporation Act, 1957 Amendment
(hereinafter referred to as the principal Act), in clause (48), after the of section 2.
word "made", the words "by the Corporation" shall be inserted.

3. (1) For section 5 of the principal Act, the following section Substitution
shall be substituted, namely:— of new
section for
section 5.

10 "5. (1) For the purposes of election of councillors, Delhi shall Delimitation
be divided into single-member wards. of wards.

(2) The Central Government shall, by order in the Official Gazette, determine,—

(a) the number of wards;

15 (b) the extent of each ward; and

*The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended Lok Sabha the consideration of the Bill.

(c) the wards in which seats shall be reserved for the Scheduled Castes.”

(2) The provisions of section 5 of the principal Act as substituted by sub-section (1) of this section shall not apply in relation to any election to fill a casual vacancy occurring in the office of a councillor at any time before the general election of councillors to be held next after the commencement of this Act.

Amendment
of section 10.

4. In section 10 of the principal Act, sub-section (2) shall be omitted.

Amendment
of section 31.

5. In section 31 of the principal Act, in sub-section (1), after item (h), the following item shall be inserted, namely:—

“(hh) the requisitioning of premises, vehicles, vessels or animals, payment of compensation in connection with such requisitioning, eviction from requisitioned premises and release of premises from requisition:”.

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Amendment
of section 38.

6. In section 38 of the principal Act, for the word “Secretary”, in both the places where it occurs, the words “Municipal Secretary” shall be substituted.

Amendment
of section
113.

7. In section 113 of the principal Act, in sub-section (2), in clause (d), for the words “or sale”, the words “sale or supply” shall be substituted.

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Amendment
of section
119.

8. Section 119 of the principal Act shall be re-numbered as sub-section (1) of that section and—

(a) in that sub-section as so re-numbered, in the proviso for the words “in this section”, the words “in this sub-section” shall be substituted;

(b) after that sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Where the possession of any land or building, being property of the Union; has been delivered in pursuance of section 20 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 to a displaced person or any association of displaced persons, whether incorporated or not, or to any other person (hereafter in this sub-section and the proviso to sub-section (1) of section 120 referred to as the transferee), the property taxes specified in section 114 shall be leviable and shall be deemed to have been leviable in respect of such land or building with effect from the 7th day of April, 1958 or the date on which possession thereof has been delivered to the transferee, whichever is later, and such property taxes shall, notwithstanding anything contained in the proviso to

44 of 1954.

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sub-section (1) of section 126 or any other provision of this Act, be recoverable with effect from that day or date, as the case may be.”.

9. In section 120 of the principal Act, in sub-section (1), the following proviso shall be inserted at the end, namely:— Amendment
of section
120.

44 of 1954.

“Provided that the property taxes in respect of land or building, being property of the Union, possession of which has been delivered in pursuance of section 20 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954, shall be primarily leviable upon the transferee.”.

10. In section 124 of the principal Act,—

Amendment
of section
124.

(a) in sub-section (3),—

(i) the words “and the assessments of property taxes in respect of lands and buildings” shall be omitted;

(ii) for the words “or the assessment is increased”, the words “or the rateable value of any land or building is increased” shall be substituted;

(b) in sub-section (4), for the words “assessment or any other matter”, the words “any other matter” and for the words “assessment or other matter”, the words “or other matter” shall be substituted;

(c) in sub-section (6), for the words “rateable value and assessment”, the words “rateable value” and for the words “rateable values or assessments”, the words “rateable values” shall be substituted.

11. In section 125 of the principal Act,—

Amendment
of section
125.

(a) in clause (a), the word “and” occurring at the end shall be omitted;

(b) clause (b) shall be omitted.

12. In section 126 of the principal Act, in sub-section (1), in the proviso, for the words “in which the amendment is made”, the words “in which the notice under sub-section (2) is given” shall be substituted. Amendment
of section
126.

13. In section 127 of the principal Act, the words “and assessments”, wherever they occur, shall be omitted. Amendment
of section
127.

14. In section 137 of the principal Act, in the second proviso, after clause (c), the following clause shall be inserted, namely:— Amendment
of section
137.

“(d) a cow kept for milking for domestic use if the cow is the only cow kept by the owner or the person having possession or control thereof for such milking and is registered in accordance with bye-laws made in this behalf, so, however, that where

more cows than one are kept by several such owners or persons constituting a family, the tax under this section shall be levied in respect of all such cows."

Substitution
of new sec-
tion for sec-
tion 164.

Remission or
refund of tax.

15. For section 164 of the principal Act, the following section shall be substituted, namely:—

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"164. (1) If any building together with land appurtenant thereto has remained vacant and unproductive of rent for sixty or more consecutive days, the Commissioner shall remit or refund, as the case may be, two-thirds of such portion of the scavenging tax, the fire tax and the general tax assessed on the rateable value thereof, as may be proportionate to the number of days during which the said building together with the land appurtenant thereto has remained vacant and unproductive of rent,

(2) If any land, not being land appurtenant to a building, has remained vacant and unproductive of rent for sixty or more consecutive days, the Commissioner shall remit or refund, as the case may be, one-half of such portion of the scavenging tax, the fire tax and the general tax assessed on the rateable value thereof, as may be proportionate to the number of days during which the said land has remained vacant and unproductive of rent.

(3) If any land whether appurtenant to a building or not, or any building has remained vacant and unproductive of rent for sixty or more consecutive days, the Commissioner shall remit or refund, as the case may be, such portion of the water tax assessed on the rateable value thereof as may be proportionate to the number of days during which the said land or building has remained vacant and unproductive of rent:

Provided that no remission or refund of the water tax shall be allowed unless an application in such form as may be prescribed by bye-laws made in this behalf has been made to the Commissioner to stop the supply of water to such land or building or unless the Commissioner is satisfied that having regard to the circumstances of any case such remission or refund should be allowed."

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Substitution
of new sec-
tion for sec-
tion 343.

Order of
demolition
and stoppage
of buildings
and works in
certain cases
and appeal.

16. For section 343 of the principal Act, the following section shall be substituted, namely:—

"343. (1) Where the erection of any building or execution of any work has been commenced, or is being carried on, or has been completed without or contrary to the sanction referred to in section 336 or in contravention of any condition subject to which such sanction has been accorded or in contravention of

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any of the provisions of this Act or bye-laws made thereunder, the Commissioner may, in addition to any other action that may be taken under this Act, make an order directing that such erection or work shall be demolished by the person at whose instance
 5 the erection or work has been commenced or is being carried on or has been completed, within such period, (not being less than five days and more than fifteen days from the date on which a copy of the order of demolition with a brief statement of the reasons therefor has been delivered to that person) as may be
 10 specified in the order of demolition:

Provided that no order of demolition shall be made unless the person has been given by means of a notice served in such manner as the Commissioner may think fit, a reasonable opportunity of showing cause why such order shall not be made:

15 Provided further that where the erection or work has not been completed, the Commissioner may by the same order or by a separate order, whether made at the time of the issue of the notice under the first proviso or at any other time, direct the person to stop the erection or work until the expiry of the period
 20 within which an appeal against the order of demolition, if made, may be preferred under sub-section (2).

(2) Any person aggrieved by an order of the Commissioner made under sub-section (1) may prefer an appeal against the order to the court of the district judge of Delhi within the period
 25 specified in the order for the demolition of the erection or work to which it relates,

(3) Where an appeal is preferred under sub-section (2) against an order of demolition, the court of the district judge may stay the enforcement of that order on such terms, if any, and
 30 for such period, as it may think fit:

Provided that where the erection of any building or execution of any work has not been completed at the time of the making of the order of demolition, no order staying the enforcement of the order of demolition shall be made by the court of the district
 35 judge unless security, sufficient in the opinion of the court, has been given by the appellant for not proceeding with such erection or work pending the disposal of the appeal.

(4) Save as provided in this section, no court shall entertain any suit, application or other proceeding for injunction or
 40 other relief against the Commissioner to restrain him from taking any action or making any order in pursuance of the provisions of this section.

(5) Every order made by the court of the district judge on appeal and subject only to such order, the order of demolition made by the Commissioner shall be final and conclusive.

(6) Where no appeal has been preferred against an order of demolition made by the Commissioner under sub-section (1) or where an order of demolition made by the Commissioner under that sub-section has been confirmed on appeal, whether with or without variation, the person against whom the order has been made shall comply with the order within the period specified therein, or as the case may be, within the period, if any, fixed by the court of the district judge on appeal and on the failure of the person to comply with the order within such period, the Commissioner may himself cause the erection or the work to which the order relates to be demolished and the expenses of such demolition shall be recoverable from such person as an arrear of tax under this Act."

Amendment
of section
344.

17. In section 344 of the principal Act, in sub-section (2), for the words "If such order is not complied with forthwith", the words, figures and brackets "If an order made by the Commissioner under section 343 or under sub-section (1) of this section directing any person to stop the erection of any building or execution of any work is not complied with," shall be substituted.

Amendment
of section
460.

18. In section 460 of the principal Act, in clause (a), after the word "applications", in both the places where it occurs, the words "election petitions," shall be inserted.

Amendment
of section
479.

19. In section 479 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

Amendment
of section
481.

20. In section 481 of the principal Act, in sub-section (1), under the heading "D. *Bye-laws relating to transport services*", in item (1),

after the words "the issue of passes", the words "to the councillors and aldermen and" shall be inserted and shall be deemed always to have been inserted.

21. In the Sixth Schedule to the principal Act, in note 3, for the figures "336", the figures "337" shall be substituted. Amendment
of Sixth
Schedule.

22. In the Tenth Schedule to the principal Act, under the heading "*Class VIII.—Metals and articles made of metals*", in item 9, for the word "betal", the word "metal" shall be substituted. Amendment
of Tenth
Schedule.

23. In the Twelfth Schedule to the principal Act,—

10 (a) against section 236, sub-section (2), in the third column, the letters and figures "Rs. 100" shall be inserted and the existing entry in the fourth column shall be omitted;

15 (b) against section 241, in the third column, the letters and figures "Rs. 50" shall be inserted and the existing entry in the fourth column shall be omitted; and

 (c) against section 343, in the second column, the words "or erection of buildings in contravention of order" shall be added at the end.

Amendment
of Twelfth
Schedule.

STATEMENT OF OBJECTS AND REASONS

The Municipal Corporation of Delhi has recommended that multi-member wards for election of councillors should be replaced by single-member wards. It is proposed to amend suitably section 5 of the Delhi Municipal Corporation Act, 1957 to give effect to this recommendation. This opportunity has been availed of to propose certain other amendments in the Act which have been found necessary in the light of the experience gained in the working of the Act.

The notes on clauses explain briefly the reasons for the proposed amendments.

LAL BAHADUR.

NEW DELHI;

The 5th August, 1961.

Notes on Clauses

Clause 3.—The clause seeks to give effect to the proposal to divide Delhi into single-member wards for the purposes of election of councillors.

Clause 5.—The proposed amendment seeks to empower specifically the Central Government to make rules relating to the temporary requisition of premises, vehicles, etc., in connection with the municipal elections.

Clause 7.—The proposed amendment is intended to make it clear that the tax on the sale of electricity under section 113(2) (d) of the Act is leviable also on electricity supplied in bulk under sections 284 and 285 of the Act to the New Delhi Municipal Committee and the Military Engineering Services, Delhi Cantonment.

Clause 8.—Under the agreements executed by the transferees of properties included in the compensation pool under the Displaced Persons (Compensation and Rehabilitation) Act, 1954, possession thereof has been delivered to the transferees but the title will be transferred retrospectively only after the last instalment of the consideration has been paid and a conveyance is executed. As such properties remain Union properties pending the transfer of title, it has been held by court that the properties are exempt from property taxes by virtue of section 119 of the Act although the transferees had undertaken to pay such taxes. Section 119 is proposed to be amended suitably in order to overcome this difficulty.

Clause 10.—As property taxes are assessed on a percentage of the rateable value of lands and buildings, mention of the specific amount of assessment in addition to the rateable value thereof in the assessment list is considered unnecessary. Besides, it entails delay in publishing the assessment list and the collection of property taxes. It is accordingly proposed to omit the requirement specifying the amount of tax in the assessment list.

Clause 12.—At present if an amendment of the assessment list is not completed in the year in which the notice of the proposal to make the amendment has been issued by the Commissioner, the liability for the property taxes according to the amended list accrues only after the commencement of the year in which the amendment is made. There does not appear any reasonable justification as to why

the liability to pay the property taxes in such a case should not accrue in the year in which the notice of the proposal is issued by the Commissioner. This is sought to be done by the amendment proposed in the proviso to section 126(1). The amendment proposed will not take the assessee by surprise or in genuine cases cause any hardship to him as he has already been served with the notice of the proposal.

Clause 14.—This amendment has been proposed in view of the recommendation of the Corporation that one cow kept for domestic use should be exempt from tax on animals leviable under section 136 of the Act. .

Clause 15.—For the stabilisation of land values in Delhi, it is necessary to impel owners of vacant building sites to build on the plots instead of keeping them vacant for speculative purposes. In view of the shortage of residential and commercial accommodation, it is also necessary to ensure that the owners do not keep their buildings vacant longer than necessary. Hence it is proposed to limit the refund of property taxes (other than water tax) on vacant lands to fifty per cent, and on vacant buildings and lands appurtenant thereto to 66½ per cent.

Clause 16.—There has been a steep increase in unauthorised constructions in Delhi which, besides being a challenge to the lawful authority, hamper the planned development of the capital. In order to check any further unauthorised constructions it is proposed to arm the Commissioner with some additional powers by making suitable amendments in section 343 of the Act as proposed in this clause.

Clause 18.—For the expeditious disposal of election petitions, it is proposed to enable the district judge to delegate to an additional district judge the power to hear such petitions.

Clause 20.—As recommended by the Corporation the proposed amendment seeks to empower the Corporation to make bye-laws providing for the issue of passes to the councillors and aldermen.

Clauses 2, 4, 6, 9, 11, 13, 17, 19, 21, 22 and 23.—The amendments proposed in these clauses are either consequential or of a clarificatory nature.

FINANCIAL MEMORANDUM

Under section 5 of the Act as proposed to be substituted by clause 3 of the Bill, the Central Government has to make a fresh order delimiting the single-member wards and reserving the requisite number of seats for the Scheduled Castes. The delimitation of single-member wards will necessitate the appointment of some additional clerical staff for a short period of about two months and will also involve some expenditure of an incidental nature. The total expenditure on this account to be met out of the Consolidated Fund of India, would be about Rs. 2.150.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill which seeks to amend section 31 of the Delhi Municipal Corporation Act, 1957, confers on the Central Government specifically the power to make rules relating to the temporary requisition of premises, vehicles, etc., payment of compensation therefor, eviction from requisitioned premises and release of premises from requisition, in connection with the municipal elections. The amendment of section 481 (1) of the Act as proposed in clause 20 of the Bill seeks to enlarge the powers of the Corporation to make bye-laws for the issue of passes to councillors and aldermen also. These are matters of detail and the delegation of legislative power is of a normal character.

M. N. KAUL,
Secretary.